



**Removal of Bald Eagle from Threatened and Endangered Species List
Frequently Asked Questions
July 2007**

On Thursday, June 28, 2007, the U.S. Fish and Wildlife Service (USFWS) removed the bald eagle from the list of threatened and endangered species. In 1963, the lower 48 states had barely 400 nesting pairs of bald eagles. Today, there are some 10,000 nesting pairs. This document provides answers to basic questions related to the bald eagle delisting.

This document was developed in coordination with the USFWS, the U.S. Army Corps of Engineers (Corps), and the City of Seattle to help provide guidance on what the bald eagle delisting means for proposed City of Seattle CIP and O&M projects.

For more information about bald eagle delisting, see the USFWS's website at <http://www.fws.gov/migratorybirds/baldeagle.htm>. If you have additional questions, please contact Jim Muck at 206.526.4740 or jim.muck@noaa.gov. This document will be updated as needed.

Q: Must the City of Seattle still consult on bald eagles under the Endangered Species Act?

A: No, removal of the bald eagle from the list of threatened and endangered species means that consultation under the Endangered Species Act is no longer required. *However*, the bald eagle is still protected under the ***Bald and Golden Eagle Protection Act*** and the ***Migratory Bird Treaty Act***. The USFWS has developed measures or guidance to ensure that construction actions are consistent with the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act. These National Bald Eagle Management Guidelines (Guidelines) are available at the USFWS's website (identified above). The USFWS is currently developing a permit application process that would allow limited take of bald eagles under the Bald and Golden Eagle Protection Act.

Q: How does the Migratory Bird Treaty Act protect bald eagles?

A: Bald eagles are among the migratory birds covered by the Migratory Bird Treaty Act. Under the Act, it is illegal to pursue, hunt, take, capture, kill, possess, sell, barter, purchase, export, or import migratory birds, their parts, nests or eggs, except as permitted by regulation. "Take" is defined under the Migratory Bird Treaty Act as "pursue, hunt, shoot, wound, kill, trap, capture, possess, or collect."

Q: How does the Bald and Golden Eagle Protection Act protect bald eagles?

A: The Bald and Golden Eagle Protection Act, originally passed in 1940, prohibits the take, possession, sale, purchase, barter, offer to sell, purchase, or barter, transport, export or import, of any bald or golden eagle, alive or dead, including any part, nest, or egg, unless allowed by permit (16U.S.C 668(a); 50 CFR 22). “Take” means to “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb” a bald or golden eagle. The term “disturb” under the Bald and Golden Eagle Protection Act was recently defined within a final rule published in the Federal Register on June 5, 2007 (72 Fed. Reg. 31332). “Disturb” means to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle; 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior; or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.

Q: What are the National Bald Eagle Management Guidelines and why are they important?

A: The USFWS developed the National Bald Eagle Management Guidelines to advise landowners, land managers and others who share public and private lands with bald eagles when, and under what circumstances, the protective provisions of the Bald and Golden Eagle Protection Act might apply to their activities. A notice of availability for the Guidelines was recently published in the Federal Register on June 5, 2007 (72 Fed. Reg. 31332). The Guidelines include general recommendations for land management practices that would benefit bald eagles; however, the document is intended primarily as a tool for those who seek information and recommendations about how to avoid disturbing bald eagles. Adherence to the Guidelines benefits individuals, agencies, organizations and companies by helping them avoid violations of the law. However, the Guidelines themselves are not law. Rather, they are recommendations based on several decades of behavioral observations, science, and conservation measures to avoid or minimize adverse impacts to bald eagles. The USFWS intends to update these guidelines as more information becomes available through adaptive management experience with the Guidelines.

Q: Will these laws provide habitat protections for the bald eagle?

A: If the destruction or degradation of habitat would disturb, or is likely to disturb eagles, it is prohibited under the Bald and Golden Eagle Protection Act. In addition, Executive Order 13186, directs federal agencies to incorporate migratory bird conservation measures into their agency activities.

Q: What is the status of existing consultations that included bald eagles?

A: No action will be needed for consultations completed prior to bald eagle delisting. The USFWS will honor existing Endangered Species Act authorizations (Habitat Conservation Plans, etc.) in place before the effective date of the delisting. The USFWS recommends that any activities that may “take” bald eagles (but which are not currently covered under an existing Endangered Species Act authorization) be conducted according to the National Bald Eagle Management Guidelines to avoid violating the Bald and

Golden Eagle Protection Act until obtaining a permit authorizing the take under the Bald and Golden Eagle Protection Act.

Q: Will the USFWS issue a permit under the Bald and Golden Eagle Protection Act, similar to incidental take under the Endangered Species Act?

A: The USFWS has proposed a permit structure under the Bald and Golden Eagle Protection Act that would be similar to the permit structure that exists under the Endangered Species Act. The permit structure is not yet in place. Any final regulation the USFWS promulgates would ensure that permitted take of eagles is compatible with the preservation of bald and golden eagles. Under a managed take permit system, requests for bald eagle take likely would be evaluated based on effects on regional bald eagle populations.

Q: Will the permit process under the Bald and Golden Eagle Protection Act be similar to the permit process under the Endangered Species Act?

A: Permits would be available to federal, state, municipal, and tribal governments; corporations and businesses; associations; and private individuals. The permit process would be similar to that required under the Endangered Species Act except that the City of Seattle would submit permit applications directly to the USFWS. Since the Corps will not be consulting with the USFWS on bald eagles, the City of Seattle will not submit permit applications through them. Instead, under the Bald and Golden Eagle Protection Act, the City must submit permit applications directly to the USFWS.

Q: Will the Seattle Biological Evaluation cover all the requirements needed for a permit under the Bald and Golden Eagle Protection Act or will something else be required?

A: Permit applications must contain the information required by the USFWS under the Bald and Golden Eagle Protection Act. The USFWS will require detailed information such as a description of the proposed activity, project location information, maps, photographs, and location and proximity of bald eagle nests and foraging areas. The Seattle Biological Evaluation should not be relied on to prepare permits under the Bald and Golden Eagle Protection Act. The Seattle Biological Evaluation is intended to assist compliance with the Endangered Species Act and will no longer apply to bald eagles; it also does not provide good site-specific information for bald eagles. The City of Seattle anticipates removing references to bald eagles when it updates the Seattle Biological Evaluation later this year.